

**Statement of
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President
Gardenbolt International, Inc.
before the
Senate Committee on Commerce, Science, and Transportation
Subcommittee on Science, Technology and Space
“Technology Administration FY2000 Budget”**

April 21, 1999

Chairman Frist and other Members of the Subcommittee, thank you for this opportunity to testify at this important hearing. My name is Steven Schonholtz and I am currently president of Gardenbolt International Corporation located in Sayreville, New Jersey, and as of May 1st president of Heads and Threads International. Gardenbolt has merged with Heads and Threads of Northbrook, Illinois to create one of the largest companies in the United States specializing in the importation and master distribution of commercial fasteners. I am here today as a concerned fastener business executive and as the representative of the National Fastener Distributors Association (NFDA) in support of S. 795, the Fastener Quality Act Amendments Act of 1999. We very much appreciate the efforts of Senator McCain in introducing this important piece of legislation and those of you, Senator Burns, Senator Hollings, and Senator Breaux, in cosponsoring the bill.

The NFDA is a national trade association representing some 250 individual companies (150 distributor and 100 manufacturer, supplier, master distributor, importer and service support companies). In addition to the NFDA membership, the association is secretariat to the Fastener Industry Coalition that represents fastener associations throughout the United States whose membership includes nearly 2,500 distributors, importers and manufacturers of fasteners. A great majority of the \$9 billion-dollar fastener commerce in this country is conducted by members of NFDA or of the Fastener Industry Coalition.

The NFDA strongly supports S. 795, incorporating much needed major revisions to the original Fastener Quality Act of 1990. In his introduction of S. 795, Senator McCain correctly noted that if this bill is not implemented as law by June 24 of this year, the Secretary of Commerce will have no other choice but to implement the Act as originally passed in 1990. If that happens, several of the nation's key industries may be brought to a halt due to lack of certified fasteners, and the impact of such a slow down would be disastrous both economically and in terms of continuous flow of products and services to maintain our current way of life. The fastener industry contributes more than 45,000

jobs to the U.S. economy and is a significant stakeholder in this country's international competitiveness. More than 70% of the billions of fasteners used in the United States is sold to companies that manufacture products, and most of these products compete in world markets.

The Commerce Department and the National Institute of Standards and Technology (NIST) have

worked diligently over the past eight years to resolve problems with the original Fastener Quality Act (FQA), first by amending the Act in 1996, and then by subsequently issuing implementing regulations

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in September 1996, and in April 1998. I was a member of the Fastener Advisory Committee chartered in 1991, under the FQA, to advise NIST and the Commerce Department on implementation of the Act. For the more than six years that the Advisory Committee was in existence, NIST and the Department listened to industry about problems with the Act and attempted, within the limits imposed by law, to make it workable and cost effective. Through no fault of the Department, implementation dates for the Act have come and gone on three occasions because there were not enough laboratories accredited to perform the required inspections under the Act. For its part, the industry has spent many millions of dollars over the past eight years to prepare for the FQA. Dozens of FQA Workshops have been held across the United States, as well as numerous workshops in Taiwan and Europe, many of which I have participated in, and have been attended by more than 4,000 industry officials.

It is safe to say that the world of fasteners in 1989, when the original problems in our industry surfaced, does not resemble the world of fasteners in 1999. Tremendous progress has been made over the last ten years in all facets of manufacturing, distribution and end user procurement practices of fasteners. Much of the progress that has been forged comes from the mutual cooperation of these groups working in a unified manner through their organizations to better the quality of our products as they enter commerce. There is a stricter adherence to published standards and specifications. Development and recognition of quality assurance systems has been established in both domestic and foreign manufacturing sectors. The use and registration of manufacturers identification symbols for traceability is mandated on products requiring these markings. Through education and promotion, end users are now focusing on purchasing from those reliable vendors that understand that superior quality products are the most marketable. Even with our advancement as an industry, and the Administration's efforts to fix the original FQA, we have a law that NFDA believes to be excessive, unworkable in its regulatory approach, and in need of major overhaul.

Congress also recognized the need to take another look at the FQA last year in passing P.L. 105-234 which, among other things, delayed implementation of the Act while the Commerce Department conducted a Congressionally mandated study to examine whether the Act is still needed. The Commerce Department delivered its report to Congress on February 24, 1999, and the report supports industry's concerns and comments of the past eight years. The NFDA wishes to commend the efforts of Dr. James Hill of NIST who managed the study and who worked closely with industry to learn firsthand the many problems that exist with the current FQA. On the basis of the five-month study, the Commerce Department recommended to Congress that the current FQA be amended. Most notable of the findings and recommendations contained in the report are the following:

Commerce Report Findings (pp. 33-34)

- The current FQA is not justified by problems in commercial or general aviation. This is
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based upon Commerce's findings that while failure of a fastener on a commercial or general aircraft could cause serious problems, the evidence does not suggest a significant fastener quality issue currently exists.

- The U.S. Customs Service conducted spot checks of imported fasteners from 1991 through 1997 and found significantly reduced incidents of fastener problems than occurred in the 1980s.
- The Defense Industrial Supply Center (DISC) instituted major new procurement practices in the 1990s. Over the past four years DISC has checked military inventories and found no evidence or widespread problems with substandard or mismarked fasteners.
- NASA has adopted a parts policy for fasteners for its ten Centers that include procurement from approved manufacturers, purchasing in single lots, requirement for test reports and certificates of conformance for all lots, and receipt inspection/tests.
- A statute providing explicit criminal liability and severe penalties for fraud in commercial transactions involving fasteners could serve as a significant deterrent to future occurrences of incidents like those described in the 1988 Congressional Report.
- Fastener manufacturing has changed drastically in the last decade based on the demand for quality by customers using fasteners in commercial products. The use of quality management systems in fastener manufacturing is a positive trend and would be encouraged by recognizing it in the Act and providing simpler compliance requirements for those manufacturers using such systems of sufficient rigor and consistency.

Commerce Report Recommendations (pp. 35-36)

- In order to approach the original intent of Congress to cover "1% of high-strength fasteners used in critical applications", coverage under the Act should be limited to only high-strength fasteners.
- To encourage the use of quality management systems, fasteners manufactured in a facility registered by a NIST-approved registrar to a quality management system should be deemed FQA compliant.
- The reporting requirements for a covered fastener should be retained to be the laboratory test report and the certificate of conformance that identifies the fastener by description, lot

number, and either the manufacturer or private label distributor. These should be allowed to
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be transmitted and stored electronically provided the electronic system provides reasonable means of authentication.

- Congress should enact an amendment to Title 18 of the United States Code specifically directed at fraud in public and private commercial transactions involving fasteners.
- Congress should review the issue of whether fasteners imported into the United States as part of subassemblies or assemblies should be covered under the Act.

The NFDA is part of an industry-wide FQA Reform Coalition assembled late last year to address needed changes in the Act. This Coalition consists of approximately 30 companies and associations, including the NFDA and the Industrial Fasteners Institute (IFI), representing manufacturers and distributors of fasteners as well as their major customers in the automotive, aerospace, heavy equipment and general industry. The Coalition has spent many hundreds of hours over the last several months reviewing the Commerce Department's FQA Report and talking with Congressional staff of this Committee, the House Science Committee, and staff from Congressman John Dingell's office, the original sponsor of the 1990 Fastener Quality Act. These discussions have led to the development and introduction of H.R. 1183 in the House and to S. 795 in the Senate. The NFDA believes that S. 795 and H.R. 1183 are a common sense approach to amending the current FQA in a way that is consistent with the findings of the Commerce Report and which recognize both industry's needs and the interest of Congress in assuring the continued public safety of fasteners sold in the marketplace. The NFDA feels S. 795 and H.R. 1183 address all of the objectives of the Administration (Commerce Report), the Congress (including oversight Committees and Congressman Dingell, the original sponsor of the FQA), and industry:

- Coverage is restricted to general purpose "high-strength" fasteners manufactured to consensus standards or specifications. Fasteners produced to proprietary standards are not covered because major end-users of such proprietary standards are capable of assuring the quality of fasteners they purchase.
- Recognition is given to the use of modern quality assurance systems in manufacturing fasteners, and those companies that use systems specifically recognized under S. 795 and H.R. 1183 are considered compliant and exempt from coverage.
- Emphasis is on preventing intentional misrepresentation or fraud in the sale of covered fasteners rather than upon requiring government mandated testing and certification. Serious criminal penalties are imposed on those who would intentionally misrepresent or falsify the characteristics of fasteners. Manufacturers of covered fasteners produced to consensus standards will have to confirm the strength characteristics of these fasteners by testing in

accredited laboratories.

- Records of conformance for each lot of covered fasteners will have to be maintained by manufacturers and importers for a period of five years, and the use of electronic recordkeeping is permitted.
- Traceability of fasteners is assured because manufacturers' identification markings will have to be on the head of a fastener as required by consensus standards or specifications, and such insignia must be registered with the Commerce Department. This preserves the cornerstone of the original FQA - that of being able to trace the identity of the manufacturer if a fastener fails in service.
- All segments of the industry covered by S. 795 and H.R. 1183 are treated equally, as compared to the original FQA where importers and foreign manufacturers were substantially discriminated against by having to shoulder unequal paperwork burdens relative to fasteners produced abroad and imported for sale into the United States.
- All of the above objectives are accomplished with a minimum of government regulation and without the extensive regulations (more than 150 pages) that were part of the original FQA.

However, the NFDA believes that there needs to be more specific and definitive language in S. 795 and H.R. 1183, allowing for current inventories to be sold as compliant with the law after the law takes effect. This is a potential \$1 billion issue if manufacturers, importers, and distributors are not able to sell their inventories at current market levels because of customer insistence of compliant product after implementation date of the law. The majority of this inventory has manufacturers' identification markings and supportive test results on file. This is the same product being put forth in a marketplace where there is no evidence of fastener quality problems. In order to resolve this issue, the NFDA proposes that the section in S. 795 and in H.R. 1183 dealing with "Applicability" be amended to read as follows:

SEC. 11. APPLICABILITY.

"The requirements of this Act shall be applicable only to fasteners fabricated 180 days after the enactment of the Fastener Quality Act Amendments Act of 1999. Fasteners manufactured prior to enactment of the Act may be sold as compliant with the Act provided, representations about such fasteners meet the requirements of Section 4 of the Act."

In summary, the NFDA strongly supports S. 795 and urges its immediate passage. It is a common

sense approach that assures public safety while avoiding the imposition of burdensome, costly, duplicative and counter-productive recordkeeping, testing and certification procedures. It recognizes evolving quality management practices. It also properly defines the role of government as one of deterring the introduction of substandard fasteners and of aggressively pursuing criminal sanctions against those who would falsify records or otherwise misrepresent or mislead others in the sale of fasteners. As stated earlier, Senator McCain correctly noted that if this bill is not implemented as law by June 24 of this year, the Secretary of Commerce will have no other choice but to implement the Act as originally passed in 1990. If that happens, several of the nation's key industries may be brought to a halt due to lack of certified fasteners, and the impact of such a slow down would be disastrous both economically and in terms of continuous flow of products and services to maintain our current way of life. This cannot be allowed to happen.

Thank you Mr. Chairman and Committee Members for your time and consideration. I am prepared to attempt to answer any questions you or the Committee may have for me.